

-16-

REMARKS

In response to the Office Action mailed August 17, 2004, Applicants respectfully request reconsideration. To further the prosecution of this Application, Applicants submit the following remarks. The claims are believed to be in allowable condition.

Claims 1-36 were pending in this Application. Claims 37 and 42 have been added. Accordingly, claims 1-42 are now pending in this Application. Claims 1, 7, 13, 14, 16, 18, 24, 30, 33, 34, 41 and 42 are independent claims.

Rejections under §102 and §103

Claims 1-17 and 33 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,144,937 to Ali (hereinafter Ali).

Ali describes at column 4, lines 1-19, a method of providing noise suppression of speech by signal processing including applying a transform to time domain input sequences of digital signals representing audio information. In Ali, a communications device, such as a cellular telephone, includes a digital signal processor (DSP) having a program memory for controlling the DSP to apply a hierarchical lapped transform to the input digital signal.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference."¹ "The identical invention must be shown in as complete detail as is contained in the ... claim."²

Independent claims 1, 7, 13, 14, 16 and 33 include the utilization of a "response document". A response document is defined in the specification, for example at page 34, lines 12-20, as being in the form of "... a generated page, such as a page including HTML and XML tags... typically includes sound files, expected input patterns (such as key chunk phrases or digit patterns), time-out

¹ *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

² *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

length, time-out action, and an indication whether a record operation is required. The XML tags within the response document 330 typically include XML directives that specify, for example, prompts to play, input patterns to match, and optionally time-out parameters and record control.”

Ali does not disclose or suggest the use of a response document. Since Ali is concerned with a method of providing noise suppression, Ali has no need or use for a response document. Accordingly, since independent claims 1, 7, 13, 14, 16 and 33 recite a response document, while Ali fails to disclose or suggest such a response document, claims 1, 7, 13, 14, 16 and 33 are believed allowable over Ali. Claims 2-6, 8-12, 15 and 17 depend from claims 1, 7, 14 or 16 and are also believed allowable as they depend from a base claim which is believed allowable. Accordingly, the rejection of claims 1-17 and 33 as being anticipated by Ali is believed to have been overcome.

Claims 18-32 and 34-36 were rejected under 35 U.S.C. §103(a) as being unpatentable over Ali in view of U.S. Patent No.6,243,722 to Day et al. (hereinafter Day).

Ali, as discussed above, describes a method of providing noise suppression of speech by signal processing including applying a transform to time domain input sequences of digital signals representing audio information. In Ali, a communications device, such as a cellular telephone, includes a digital signal processor (DSP) having a program memory for controlling the DSP to apply a hierarchical lapped transform to the input digital signal.

Day discloses at column 4, lines 6-25, a method and system for a network-based document review tool utilizing comment classification. In Day, a document is displayed in a graphic interface and portions of the document are designated which may be commented on by users. These portions are associated with a display interface wherein users may enter comments pertaining to the document. The comments may be separately stored, retrieved and used in creation of the document.

In order to establish a *prima facie* case, the Office Action must meet three criteria.

“First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.”³

Applicants respectfully submit that there is no basis in the cited art for combining the references. As discussed above, the Ali reference describes a method of providing noise suppression for a communications device, while Day discloses a network-based document review tool. The Examiner is combining the teachings of nonanalogous art which is outside the field of the inventor's endeavor.

Even if one were to theoretically combine the teachings of Ali and Day, this theoretical combination does not disclose or suggest the claimed invention. Independent claims 18, 24, 30, 31 and 34 include accessing “...an application defining tagged document in response to a request received over the network” and further providing “...a response suitable for audio output based on the application defining tagged document and the request”. The application defining tagged document is described in the specification as filed, for example at page 29, lines 24 – 27 “...application-defining tagged documents 328 (e.g. XML menu/decision documents) stored in an application document database 96 and executed in the application runtime 224 of the application server 66”.

Neither Ali nor Day, taken alone or in combination, disclose or suggest the utilization of an application defining tagged document. Since Ali is concerned with a method of providing noise suppression, Ali has no need or use for an application defining tagged document. Similarly, since Day is concerned with a network-based document review tool utilizing comment classification, Day also

³ *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

-19-

has no need or use for an application defining tagged document. Accordingly, since independent claims 18, 24, 30, 31 and 34 recite an application defining tagged document, while Ali and Day fails to disclose or suggest such an application defining tagged document, claims 18, 24, 30, 31 and 34 are believed allowable over Ali and Day. Claims 19-23, 25-29, 32 and 35-36 depend from claims 18, 24, 31 or 34 and are also believed allowable as they depend from a base claim which is believed allowable. Accordingly, the rejection of claims 18-32 and 34-36 as being unpatentable over Ali in view of Day is believed to have been overcome.

Newly Added Claims

Claims 37 - 42 have been added and are believed to be in allowable condition. Support for claims 37 - 42 is provided within the Specification, for example, on page 8, line 28 through page 15, line 24. No new matter has been added. Claims 37-40 depend from claims 1 and 7 and are believed allowable as they depend from a base claim which is believed allowable. Claims 41 and 42 are independent claims and are also believed allowable.

Conclusion

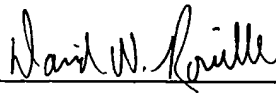
In view of the foregoing remarks, this Application should be in condition for allowance. A Notice to this effect is respectfully requested. If the Examiner believes, after this Response, that the Application is not in condition for allowance, the Examiner is respectfully requested to call the Applicants' Representative at the number below.

Applicants hereby petition for any extension of time which is required to maintain the pendency of this case. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 50-0901.

-20-

If the enclosed papers or fees are considered incomplete, the Patent Office is respectfully requested to contact the undersigned collect at (508) 366-9600, in Westborough, Massachusetts.

Respectfully submitted,



David W. Rouille, Esq.
Attorney for Applicant(s)
Registration No.: 40,150
CHAPIN & HUANG, L.L.C.
Westborough Office Park
1700 West Park Drive
Westborough, Massachusetts 01581
Telephone: (508) 366-9600
Facsimile: (508) 616-9805

Attorney Docket No.: CIS00-2411

Dated: November 15, 2004